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Patent
Attorney's Docket No. 021565-075

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of

Frank MEULEWAETER et al

Serial No.: 09/551,494

Filed: April 18, 2000

For: METHOD AND MEANS FOR
DELIVERING INHIBITORY RNA
TO PLANTS AND
APPLICATIONS THEREOF

Group Art Unit: 1635

Examiner: J. Epps

Confirmation No.: 2755

REPLY

Assistant Commissioner of Patents and Trademarks
Washington D.C., 20231

Sir:

In complete response to the Official Action mailed July 30, 2002, Applicants offer the following Remarks.

REMARKS

Claims 32, 34, 38, 42-43, 45 and 49 remain rejected under 35 U.S.C. 103(a) as purportedly unpatentable over Fitzmaurice et al., and Masuta et al. in view of Gierson et al., for the reasons of record set forth in the Official Action mailed 12-14-2001. This rejection is respectfully traversed

In order to make out a *prima facie* case of obviousness, the cited art must: 1) provide **motivation** for making the claimed invention, and 2) provide a **reasonable expectation of successfully** practicing the claimed invention. Both the motivation and the reasonable expectation of success must be found in the prior art, and not in Applicants' disclosure. *In re Vaeck*, 20 USPQ2d 1438 (Fed. Cir. 1991). The Federal Circuit has recently restated the significance of the longstanding prohibition against the PTO's use of an